Judiciary Committee
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Raised Bill No. 6927, An Act Concerning the Recommendations of the Law Revision Commission with Respect to Alimony Statutes; Raised Bill No. 1029: An Act Concerning a Nonadversarial Dissolution of Marriage; Committee Bill No. 5505: An Act Concerning Family Court Proceedings; Raised Bill No. 1029: An Act Concerning a Nonadversarial Dissolution of Marriage; Governor's Bill No. 6848: An Act Protecting Victims of Domestic Violence; Proposed Bill No. 650: An Act Concerning Temporary Restraining Orders

The Connecticut Women's Education and Legal Fund (CWEALF) is a statewide non-profit organization dedicated to empowering women, girls, and their families to achieve equal opportunities in their personal and professional lives. For 40 years, CWEALF has provided information, referral, and support to women seeking guidance about issues involving family law, employment discrimination, and civil rights, many of whom experience domestic violence. We respectfully request your consideration of our testimony regarding the following bills.

Raised Bill No. 6927: An Act Concerning the Recommendations of the Law Revision Commission with Respect to Alimony Statutes

CWEALF opposes this bill because of the harmful consequences it will have for women and children, especially low-income individuals.

We conducted a recent study entitled, *Outcomes of Marriage Dissolution in Connecticut: An Empirical Study of Divorce, Custody, and Financial Support in 2012*, which reviewed a scientific sample of 433 divorces in 2012 in two judicial districts containing a range of incomes. First, we learned that alimony is rare in Connecticut. Only 19% of all divorce cases contained an order of non-token alimony.[1] Alimony orders in Connecticut are also relatively low in dollar amount. Of those receiving more than token alimony, 76% received less than $300/week in alimony.[2]

We also know that very few alimony orders had an indefinite term – only 14% of all divorce cases. This statistic refutes familiar complaints about the incidence of lifetime alimony awards,

[1] "Token alimony" is $1/year and signifies that the party awarded alimony is eligible to petition the court for a modification in alimony.
[2] The average income of men paying alimony was $947/week for female plaintiffs and $1247/week for female defendants.

and shows that such orders occur only in rare situations. As to whether awards are unpredictable or unfair, of the 66 cases in which alimony was awarded for a set time period, alimony in 49 cases were for a term of between 1-8 years, while only 11 were 8-10 years. In addition, only six, or 1% of all 433 divorces studied, were granted alimony for a period longer than 10 years.

Still, we learned that financial consequences of divorce were worse for women. Despite the gains many women have made in the workplace, and many men's increasing participation in child care responsibilities, the child care and household responsibilities still often fall primarily on women's shoulders. Women therefore often work part-time or seasonally, sacrifice professional and educational opportunities, refuse overtime and promotions, and lose out on opportunities to update their professional and technical skills.

As a result, many women lose future earning potential and asset accumulation, including property and retirement funds. These negative financial consequences have a lifelong impact. In these situations, it is imperative that the judge have the discretion to consider a spouse's significant contribution to maintaining a household, raising children, and supporting the other spouse in increasing his or her lifetime earning capacity.

Cohabitation provisions:

We urge the committee to reject the provisions of this bill governing modifications of alimony following cohabitation. Currently, the law allows the court, after a hearing, to modify or terminate the payment upon a showing that the recipient is living with another person under circumstances that the court finds should result in a modification or termination because the living arrangements cause such a change in circumstances as to alter the financial needs of the party.[3] This standard is already more expansive than regular alimony modifications, which require a "substantial change in circumstances of either party."[4]

This bill proposes imposing an even higher burden on recipients. If a payor can prove the recipient is living in a "marriage-like" relationship for six months or more, the burden would be placed on the recipient to show that the alimony should not be modified or terminated. This new language does not even reference the financial circumstances of either party in considering a modification.

This type of standard places an additional burden on the recipient to "prove a negative" by showing this situation has not occurred. It also encourages fishing expeditions into the privacy of the personal lives of recipients, mostly women. Instead, the judge should retain the discretion to determine on an individual basis whether the situation significantly changes the alimony recipient's need for support.

In addition to this misplaced burden, this portion has other flaws. This proposal assumes incorrectly that a live-in relationship always provides sufficient financial support to the recipient. While this bill and the current statute seem geared toward addressing romantic cohabitations, they fail to acknowledge situations where the recipient may merge households with a friend or

[3] C.G.S. § 46b-86(b).
[4] C.G.S. § 46b-86(a).

family member because one or both parties are struggling financially, as is often the case with the clients CWEALF serves.

Retirement Provisions:

We also oppose the addition of new provisions regarding modifications at or near retirement. This bill would create a new standard that would place additional burdens on the recipient. If a supporting spouse files a motion to modify the alimony payment on the grounds of retirement and reaching the age of 65, the recipient would have the burden of proving it should *not* be modified. Just like the cohabitation provisions, the retirement provisions place an undue burden on recipients that are especially onerous for low-income individuals who do not have the resources to issue subpoenas and analyze financial affidavits. Requests for modification based on retirement should be treated as all other modification requests are - upon a showing of a substantial change in circumstances of either party.

Current State of Alimony in Connecticut:

A recent Connecticut Supreme Court case, *Dan v. Dan*, has further complicated alimony modifications, making them more difficult for women. This case involved a high-income alimony payor whose salary more than tripled after the original alimony order. The Superior Court originally ordered an increase in the award, after considering the several factors enumerated in the statute. After the Appeals Court upheld the decision, the Supreme Court reversed it, finding that a modification was not justified when the only change in circumstances was the supporting spouse's income.

This decision was a gross deviation in case law and statutes governing alimony modifications. Presumably, if the payor's income had ***decreased*** by 1/3, the court would have been inclined to decrease the alimony award based solely on the payor's change in income, and rightfully so. This opinion also failed to acknowledge that a woman's resignation from the workforce and dedication to home, spouse, and family contributes substantially to the lifelong career success of the earning spouse. This is especially true in marriages with a long length. While the earning spouse's career prospects and income will continue to surge during and after the marriage, the non-earning spouse will never have the opportunity to earn income close to the family's previous income.

Rather than create stricter standards through this bill, we recommend removing §46b-86(b) and relying on the modification standard already set forth in section (a). The committee should also add language to clarify that a modification made under Section 46b-86 may be based upon any and all of the factors listed in Section 46b-82. In sum, we oppose this bill as it creates too many burdens on recipients, with especially harmful effects on low-income women and children.

Raised Bill No. 1029: An Act Concerning a Nonadversarial Dissolution of Marriage

CWEALF's Legal Education program serves mostly lower income individuals who are navigating the family law system on their own. This is not necessarily by choice; often these individuals marginally exceed the eligibility requirements for free legal aid but do not have

sufficient resources to pay for a lawyer at traditional market rates. Couples who agree on the terms of their dissolution should be able to complete this with relative ease, without enduring the lengthy process required for traditional divorce.

This bill is narrowly drafted to include only those who will not face complicated issues like custody, alimony, or the division of real property. It also excludes those who have a restraining order or protective order in effect.

The bill could be improved by expanding this provision to exclude all parties who have ***ever*** had a restraining order or protective order issued against one party at the request of the other. Because two parties in a relationship involving abuse or violence are unlikely to come to a fair agreement that is equitable to both parties given the imbalance of power, caution should be taken in their ability to participate in an expedited dissolution.

Other provisions in the bill would help protect the interests of parties, including the option by either party to revoke the action in process, the court's review of each agreement to ensure it is fair and equitable.

This process will help a small portion of family court litigants, and as such, we encourage this committee, the judicial system, and the bar to continue efforts to make the divorce process an easier and less expensive one for all family court litigants.

Committee Bill No. 5505: An Act Concerning Family Court Proceedings

CWEALF opposes this bill, which would implement a number of drastic changes to the court system. Primarily, we oppose Section 1, which would limit a judge's discretion to order supervised visitation to certain situations. Our experience with family law clients informs us that this section is much too limiting. For instance, if a abuse or neglect case is pending with DCF, or a domestic violence or sexual abuse case is pending with a police department, the judge would not be able to order supervised visitation. This is simply too restrictive and will be harmful to women and children.

For the remainder of the provisions in the bill, we urge you to consider the testimony of the legal aid community, whose position we support.

Governor's Bill No. 6848: An Act Protecting Victims of Domestic Violence; Proposed Bill No. 650: **An Act Concerning Temporary Restraining Orders**

We support both of these bills as effective tools for victims of domestic violence. As many of CWEALF's clients experience domestic violence within the context of family law cases, we are aware of the sensitive issues presented by these situations and closely tracked the work of the Restraining Order Task Force in 2014.

During the task force's tenure it became clear that there are several striking problems within the current system:

- First, many restraining orders are never served due to marshals' inability to locate the respondents. Without service, restraining orders are not enforceable.
- There is no reliable method of tracking the success or failure of service. On a systemic level, data collection is critical for accountability among those responsible for service. Furthermore, victims often times did not know whether or not the respondent had been served, making safety planning difficult or impossible.
- When a marshal fails to serve notice in the limited time frame, victims are currently forced to reapply for a new order, a time-consuming and emotional process.
- Finally, marshals are not readily accessible to victims as they are only available at the courthouse at two 30-minute periods per day.

For these reasons, CWEALF supports **Proposed Bill No. 650** as a first step in solving these issues. We support a judge's ability to extend a restraining order if service has not occurred, the ability of a victim to obtain an immediate order outside of business hours through a 24-hour on-call judge, improved methods of tracking orders, and an increase in the number of victim advocates housed within courthouses to assist victims with applications and safety planning.

We urge the committee to go one step further and consider using law enforcement not just as optional servers, but as the main actors in serving restraining orders. Due to their access to civil and criminal databases like driver history, CJIS and NCIS, law enforcement is much more equipped to locate respondents than marshals are. In addition, they can easily ascertain whether a respondent is licensed to carry a weapon. Law enforcement officers are armed and specifically trained to de-escalate volatile situations, making them better able to deal with dangerous or armed respondents.

Governor's Bill No. 6848 also recognizes that one of the most dangerous times for a victim is when he or she attempts to leave the situation. Some batterers will increase the threat or level of violence, and sometimes threaten children in the family. According to the CT Coalition Against Domestic Violence, of the intimate partner homicides in Connecticut over the last several years, firearms were the most common weapon in those homicides, used 39% of the time.[5] Women in an abusive relationship are five times more likely to be killed if their abuser has access to a firearm.[6]

The danger is clear for victims. This is why CWEALF also supports the Governor's proposal for those subject to temporary restraining orders to surrender their weapons to a licensed gun dealer within 24 hours. Many victims fear leaving because they know their abuser has weapons. Many victims fear leaving because they know their abuser will be more likely to use those weapons. How many more women have to be killed before we take stronger steps to curb domestic violence?

We urge the committee to implement these initiatives to enhance the protection of victims and their families during their most vulnerable times.

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[5] Jarmoc, Karen, *Temporary Restraining Order Should Mean No Guns,* Hartford Courant, January 5, 2015.
[6] Id.